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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-549**

12 **LURLINE PRICER NIETO, a.k.a.**
13 **LURLINE DAVIS**

ACCUSATION

14 2364 Jeans Court
15 Signal Hill, CA 90755

16 Registered Nurse License No. 376862
Nurse Practitioner Certificate No. 7104
17 Nurse Practitioner Furnisher No. 7104
Public Health Nurse Certificate No. 46145
18 Clinical Nurse Specialist No. 853

19
20 Respondent.

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22
23 Complainant alleges:

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
26 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
27 Department of Consumer Affairs.
28

2. On or about August 31, 1984, the Board issued Registered Nurse License No. 376862 to Lurline Pricer Nieto, also known as Lurline Davis (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2010, unless renewed.

3. On or about July 19, 1994, the Board issued Nurse Practitioner Certificate No. 7104 to Respondent. The Certificate expires on May 31, 2010, unless renewed.

4. On or about April 13, 1995, the Board issued Nurse Practitioner Furnisher Certificate No. 7104 to Respondent. The Certificate expires on May 31, 2010, unless renewed.

5. On or about April 23, 1990, the Board issued Public Health Nurse Certificate No. 46145 to Respondent. The Certificate expires on May 31, 2010, unless renewed.

6. On or about February 4, 1999, the Board issued Clinical Nurse Specialist Certificate No. 853 to Respondent. The Certificate expired on May 31, 2004, and has not been renewed.

JURISDICTION

7. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

8. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

9. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY AUTHORITY

10. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

----- "(a) Unprofessional conduct, which includes, but is not limited to, the following: -----

1 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
2 functions.

3 "...."

4 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
5 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
6 Act] or regulations adopted pursuant to it.

7 11. Section 2762 states, in relevant part:

8 "... [I]t is unprofessional conduct for a person licensed under this chapter

9 to do any of the following:

10 "...."

11 "(b) Use any ... alcoholic beverages, to an extent or in a manner dangerous or injurious to
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her
13 ability to conduct with safety to the public the practice authorized by his or her license.

14 "...."

15 **COST RECOVERY**

16 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct – Use of Alcohol)

22 13. Respondent is subject to disciplinary action under section 2762(b) in that she used
23 alcoholic beverages to an extent or in a manner dangerous or injurious to herself, any other
24 person, or the public. The circumstances are as follows:

25 14. On or about December 9, 2005, Respondent was observed by the Medical Director to
26 be under the influence of alcohol, with the smell of alcohol on her breath and slurring her words
27 when she spoke, when she arrived at her employer, Lindora Bariatrics Weight Management's
28 corporate office in Costa Mesa, California, for a performance evaluation. Respondent admitted to

1 the Medical Director that she was an alcoholic. She was taken to the emergency room at Orange
2 Coast Memorial Hospital, subsequently voluntarily enrolling in an in-patient alcohol
3 rehabilitation program. Respondent returned to work in or about February 2006.

4 15. On or about January 5, 2007, Respondent was at her employer's Downey clinic. She
5 again was taken to the emergency room of the Long Beach Community Hospital because she was
6 exhibiting strange behavior. The Medical Director of Lindora Bariatrics Weight Management,
7 went to the emergency room to check on Respondent's condition. When the Medical Director
8 arrived at the emergency room, Respondent denied that she was an alcoholic, but later admitted
9 she had a drinking problem.

10 SECOND CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct – Incompetence and/or Gross Negligence)

12 16. Respondent is subject to disciplinary action under section 2761(a)(1) in that she was
13 incompetent and/or grossly negligent in carrying out usual licensed nursing functions. The
14 circumstances are as follows:

15 17. On or about July 14, 2006, or on or about October 14, 2006, while employed as a
16 Nurse Practitioner for Lindora Bariatrics Weight Management in Costa Mesa, California,
17 Respondent administered a shot of Pneumovax, which is a vaccine used to prevent pneumonia, to
18 patient M.A., instead of a flu shot.

19 18. On or about October 7, 2006, Respondent collected blood specimens from a male
20 patient and a female patient. Respondent did not follow proper nursing procedures when she
21 placed both specimens in the centrifuge without the patients' names or lab requisition labels.

22 19. On or about October 14, 2006, Respondent failed to follow proper nursing procedures
23 when she collected blood from a patient without wearing gloves.

24 20. On or about October 28, 2006, Respondent failed to follow her employer's protocol
25 when she gave a flu shot to a teenage patient without obtaining a signed consent from his or her
26 parent or guardian.

27 21. On or about October 28, 2006, Respondent failed to follow her employer's protocol
28 when she collected blood from a patient without first obtaining the patient's signed consent.

22. On or about October 28, 2006, Respondent marked the incorrect panel on a laboratory requisition.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Violation of Board Statutes)

23. Respondent is subject to disciplinary action under section 2761(d) in that she violated Board statutes, as more described in paragraphs 14, 15, and 17 through 22, inclusive.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License No. 376862, issued to Lurline Pricer Nieto, also known as Lurline Davis;

2. Revoking or suspending Nurse Practitioner Certificate No. 7104, issued to Lurline Pricer Nieto, also known as Lurline Davis;

3. Revoking or suspending Nurse Practitioner Furnisher Certificate No. 7104, issued to Lurline Pricer Nieto, also known as Lurline Davis;

4. Revoking or suspending Public Health Nurse Certificate No. 46145, issued to Lurline Pricer Nieto, also known as Lurline Davis;

5. Revoking or suspending Clinical Nurse Specialist Certificate No. 853, issued to Lurline Pricer Nieto, also known as Lurline Davis;

6. Ordering Lurline Pricer Nieto, also known as Lurline Davis, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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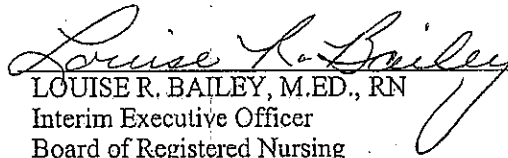
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7. Taking such other and further action as deemed necessary and proper.

DATED: 4/26/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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